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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,)

10 Plaintiff,)

11 v.)

12 ROBERT DEAN ELLSWORTH,)

13 Defendant.)
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3:04-CR-00035-LRH-RAM

ORDER

15 Before the Court is Defendant's *pro se* Motion to Dismiss Pursuant to Federal Rules of
16 Civil Procedure 12(b)(1) and 12(h)(3) for Lack of Subject Matter Jurisdiction. Doc. #57.¹ The
17 United States filed a Response (Doc. #58), to which Defendant did not reply. Also before the
18 Court is Defendant's *pro se* Motion to Disregard and Strike from the Record the United States'
19 Response (Doc. #58) as Non-Responsive and For Failure to State a Claim. Doc. #59.

20 On May 6, 2013, Defendant, acting *pro se*, filed a nearly identical motion styled as a
21 "Motion to Dismiss and Vacate Case and All Proceedings and Orders Therein for Lack of Subject
22 Matter Jurisdiction Pursuant to Federal Rule of Civil Procedure 12(h)(3)." Doc. #51. In both
23 Motions, Defendant asserts that the Court lacked subject matter jurisdiction because the entirety of
24 Title 18 United States Code, including Section 3231, under which he was charged, prosecuted,
25 convicted, and sentenced, was not properly enacted into law. Doc. #51, p. 10; Doc. 54, p. 6; Doc.
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¹ Refers to the Court's docket number.

1 #57, pp. 2-3 (citing Exhibit A). On October 23, 2013, the Court issued an Order denying
2 Defendant's motion as both untimely and as to the merits. Doc. #55. Again, the Court finds
3 Defendant's argument that 18 U.S.C. § 3231 was not properly enacted is entirely lacking in merit.
4 The Court reiterates that its exercise of jurisdiction over Defendant was proper and denies his
5 Motion for a second time.

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7 IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss Pursuant to Federal
8 Rules of Civil Procedure 12(b)(1) and 12(h)(3) for Lack of Subject Matter Jurisdiction (Doc. #57)
9 is DENIED.

10 IT IS FURTHER ORDERED that Defendant's Motion to Disregard and Strike from the
11 Record the United States' Response as Non-Responsive and For Failure to State a Claim (Doc.
12 #59) is DENIED as moot.

13 IT IS SO ORDERED.

14 DATED this 30th day of January, 2014.

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18 LARRY R. HICKS
19 UNITED STATES DISTRICT JUDGE
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